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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Statement of Issues
14 Against:

15 **KAREN LEE JASZEWSKI**

16 **Registered Nurse License Applicant**

17 Respondent.
18

Case No. 2013-16

STATEMENT OF ISSUES

19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
22 her official capacity as the Interim Executive Officer of the Board of Registered Nursing, (Board)
23 Department of Consumer Affairs.

24 2. On or about July 25, 2011, the Board of Registered Nursing, Department of
25 Consumer Affairs received an application for a Registered Nurse license from Karen Lee

26 Jaszewski (Respondent). On or about April 19, 2011, Respondent certified under penalty of
27 perjury to the truthfulness of all statements, answers, and representations in the application. The
28 Board denied the application on November 4, 2011.

JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section Code 480.

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

1 (3) (A) Done any act that if done by a licentiate of the business or profession
2 in question, would be grounds for suspension or revocation of license.

3 (B) The board may deny a license pursuant to this subdivision only if the
4 crime or act is substantially related to the qualifications, functions, or duties of the
5 business or profession for which application is made.

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7 7. Section 482 of the Code states:

8 Each board under the provisions of this code shall develop criteria to evaluate
9 the rehabilitation of a person when:

10 (a) Considering the denial of a license by the board under Section 480; or

11 (b) Considering suspension or revocation of a license under Section 490.

12 Each board shall take into account all competent evidence of rehabilitation
13 furnished by the applicant or licensee.

14 8. Section 493 of the Code states:

15 Notwithstanding any other provision of law, in a proceeding conducted
16 by a board within the department pursuant to law to deny an application for a
17 license or to suspend or revoke a license or otherwise take disciplinary action
18 against a person who holds a license, upon the ground that the applicant or the
19 licensee has been convicted of a crime substantially related to the qualifications,
20 functions, and duties of the licensee in question, the record of conviction of the
21 crime shall be conclusive evidence of the fact that the conviction occurred, but
22 only of that fact, and the board may inquire into the circumstances surrounding
23 the commission of the crime in order to fix the degree of discipline or to
24 determine if the conviction is substantially related to the qualifications,
25 functions, and duties of the licensee in question.

26 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
27 and 'registration.'

28 9. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or
deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the
following:

. . . .

(f) Conviction of a felony or of any offense substantially related to the
qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

. . . .

10. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

11. Section 2765 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444 states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

13. California Code of Regulations, title 16, section 1445 states:

(a) When considering the denial of a license under Section 480 of the code, the board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

DRUG

14. Methamphetamine is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to Business and Professions Code section 4022.

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3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

(December 19, 2000, Criminal Convictions for Unlawful Possession of a Dangerous Drug)

4 15. Respondent's application is subject to denial under Code section 480,
5 subdivision (a)(1) in that she was convicted of a crime that is substantially related to the
6 qualifications, duties, and functions of a registered nurse. The circumstances are as follows:

7 a. On or about December 19, 2000, in a criminal proceeding entitled *People*
8 *of the State of Arizona v. Karen Lee Jaszewski*, in Maricopa County Superior Court, Early
9 Disposition Court, case number CR2000-091977, Respondent was convicted on her plea of guilty
10 to violating Arizona Revised Statutes, Title 13, sections 13-1002, 13-3401, 13-3407, 13-3418,
11 13-701, 13-702, 13-801, 13-802, and 13-901.01 (A), solicitation to commit unlawful possession
12 of dangerous drugs, to wit, methamphetamine, a felony.

13 b. As a result of the convictions, the Court suspended sentence and ordered
14 summary probation for three (3) years with various terms and conditions of probation, including
15 complete 360 hours of community service and pay fines and fees. On or about March 3, 2003,
16 the Court granted Respondent's petition for early termination of probation and discharged
17 Respondent from probation.

18 c. The facts and circumstances that led to the convictions are that on or about
19 March 4, 2000, Respondent unlawfully possessed the illicit dangerous drug and controlled
20 substance methamphetamine.

21 **SECOND CAUSE FOR DENIAL OF APPLICATION**

(Unlawful Possession of Controlled Substance)

22 16. Respondent's application is subject to denial under Code section 480, subdivision
23 (a)(3)(A), in that on or about March 4, 2000, Respondent unlawfully possessed the controlled
24 substance methamphetamine as detailed in paragraph 15, above, which is incorporated herein by
25 reference, and which is grounds for suspension or revocation of a Registered Nurse's license
26 under Code section 2762, subdivision (a).

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2 **THIRD CAUSE FOR DENIAL OF APPLICATION**

3 (Drug-Related Substantially Related Criminal Conviction)

4 17. Respondent's application is subject to denial under Code section 480, subdivision
5 (a)(3)(A), in that Respondent was convicted of a criminal offense involving the possession of the
6 controlled substance methamphetamine, a crime substantially related to the qualifications,
7 functions and duties of a registered nurse, as detailed in paragraph 15, above, and incorporated by
8 reference, and which is grounds for suspension or revocation of a Registered Nurse's license
9 under Code sections 2761, subdivision (f), and 2762, subdivision (c).

10 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

11 (Dishonest Acts)

12 18. Respondent's application is subject to denial under Code section 480, subdivision
13 (a)(2) in that in or about 1989, Respondent unlawfully used a credit card that did not belong to her
14 to purchase merchandise for herself without the permission of the credit card owner.
15 Respondent's conduct involved dishonesty with the intent to substantially benefit herself or
16 another. The circumstances are that Respondent admitted to the Board in a letter dated July 11,
17 2011, that in 1989 she had used a credit card that she did not own to purchase merchandise for
18 herself and without the permission of the credit card owner. Respondent also admitted that said
19 unlawful conduct resulted in her criminal conviction for the crime of attempted forgery, a felony.

20 **DISCIPLINARY CONSIDERATIONS**

21 19. In a letter to the Board, dated July 11, 2011, Respondent admitted that she had
22 consistently engaged in unlawful conduct, including daily unlawful drug use and frequent
23 criminal conduct to obtain drugs for personal use, for approximately 30 years-when she lived in
24 Arizona from the time she was 15 through 44 years old. Respondent admitted that on several
25 separate occasions during those years she had engaged in criminal conduct that resulted in her
26 arrest and criminal prosecution for a variety of crimes in addition to those described above in
27 paragraphs 15 through 18, including, but not limited to, unlawful possession of marijuana, driving
28 while intoxicated, shoplifting, providing false information to a peace officer, and obstruction of

1 justice. Respondent stated that she was unable to obtain any documentation regarding said
2 criminal conduct because the related records had been purged. Respondent stated that all of her
3 unlawful conduct arose from her consistent unlawful drug use.

4 20. Respondent also stated in her letter to the Board, dated July 11, 2011, that currently
5 she lives a drug-free, alcohol-free, and law-abiding lifestyle as she has lived for over ten years,
6 since she participated in a drug rehabilitation program through her church in Nevada in 2001.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:

- 10 1. Denying the application of Karen Lee Jaszewski for a Registered Nurse License;
11 2. Taking such other and further action as deemed necessary and proper.

12 DATED: July 6, 2012

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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